

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

WEDNESDAY, THE 17TH OCTOBER 2007 / 25TH ASWINA 1929

Crl.L.P.No. 497 of 2007()

CC.37/2007 of JUDICIAL FIRST CLASS MAGISTRATE COURT -III,
KOTTARAKKARA
.....

PETITIONER/COMPLAINANT:

S.AJITHKUMAR, PUTHENVILA VEEDU,
KATTADY P.O., MARUTHAMANPALLY,
POOYAPPALLY VILLAGE, KOTTARAKKARA TALUK.

BY ADV. SRI.SAJU.S.A

RESPONDENTS: ACCUSED AND STATE

1.P.D.THOMAS, S/O. DANIEL,
PUNTHALATHEKKATHIL,
CHERUMANGADU, PUTHOOR PO.,
PUTHOOR VILLAGE, KOTTARAKARA TALUK.

2. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. PUZHAKKARA MOHAMMED -R2

THIS CRIMINAL LEAVE PETITION HAVING COME UP FOR ADMISSION
ON 17/10/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

K.THANKAPPAN, J.

CRL. L.P. NO. 497 OF 2007

Dated this the 17th day of October, 2007

O R D E R

This petition for special leave to appeal is filed against the judgment in C.C. No.37 of 2007 on the file of the Judicial First Class Magistrate's Court III, Kottarakkara.

2. The case of the petitioner -complainant was that the first respondent - accused had borrowed from him an amount of Rs.1,00,000/- and issued Ext.P1 cheque towards discharge of the said liability which when presented to the bank for encashment was dishonoured due to insufficiency of funds in the account of the accused. After complying with the statutory provisions regarding notice and seeing that the amount covered by the cheque in question was not repaid, the petitioner filed the complaint. To prove the case against the accused, the complainant himself was examined as PW.1 and Exts.P1 to P6 were produced. On the side of the defence, the accused and another witness were examined as DWs.1 and 2 respectively and Exts.D1 to D5 were produced. After closing the

evidence of the complainant, the first respondent - accused was questioned under Section 313 Cr.P.C. Denying the allegation in the complaint, the accused stated that the cheque in question was given as security for taking a loan of Rs.90,000/- from one Surendra Kankariya by hypothecating his vehicle and that when there was some default in payment of the instalments, the petitioner - complainant took the vehicle and though the vehicle was subsequently released to him, the complainant misused the blank cheque issued to the said Surendra Kankariya. After considering the entire evidence, the trial court found that the cheque in question was not issued in discharge of a legally enforceable debt and that the cheque was issued towards repayment of a loan of Rs.90,000/-. To come to this conclusion, the trial court relied on Exts.D2 to D4 receipts and Ext.D1 account book showing the loan transaction which was admitted by the first respondent - accused. After hearing the learned counsel appearing for the petitioner and perusing the judgment of the trial court, this Court is of the view that the impugned judgment is based on evidence and requires no interference.

The Crl. Leave Petition is accordingly dismissed.

(K.THANKAPPAN, JUDGE)

sp/

K. THANKAPPAN, J.

CRL.A. NO.

JUDGMENT

OCTOBER, 2007